

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

EMCYTE CORP.,

Plaintiff,

v.

Case No: 2:19-cv-769-JES-NPM

XLMEDICA, INC., and
ANNA STAHL,

Defendants,

XLMEDICA, INC., and
ANNA STAHL,

Counter-Plaintiffs,

v.

EMCYTE CORP.,

Counter-Defendant,

And

PATRICK PENNIE,

Third Party-Defendant.

ORDER

This matter comes before the Court on review of the file. On September 13, 2022, defendants XLMedica, Inc. and Anna Stahl filed a Motion For Summary Judgment. (Doc. #217.) Plaintiff EmCyte Corporation filed an Expedited, Opposed Motion For Deferment of Defendants' Motion For Summary Judgment (Doc. #224) on September

20, 2022. On November 7, 2022, the Court issued an Opinion and Order granting EmCyte's motion (Doc. #244) given that defendants Motion for Summary Judgment was filed prior to the completion of the discovery process. Accordingly, the Court deferred consideration of defendants' Motion for Summary Judgment and ordered EmCyte to file a response to the motion within two weeks after the close of discovery. (Id., p. 6.)

To date, the parties continue to engage in discovery disputes. Indeed, the Court's docket reflects numerous pending motions that concern requests for sanctions, a protective order, and an evidentiary hearing (Docs. ##245, 258, 279, 281, 285, 286), all of which stem from the ongoing melee between the parties to comply with previous discovery orders issued by the Court and conclude all discovery. The Court also cancelled all deadlines set forth in the Third Amended Case Management and Scheduling Order (Doc. #276) pending resolution of said disputes.

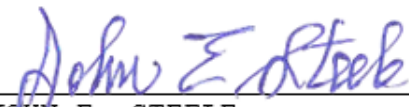
In light of the current posture of the case, the Court finds that while the arguments in defendants' Motion for Summary Judgment may remain the same, the discovery in support of (or in opposition thereof) it is likely to change. The Court therefore dismisses defendants' motion without prejudice.

Accordingly, it is now

ORDERED:

Defendants XLMedica, Inc. and Anna Stahl's Motion For Summary Judgment is **DISMISSED without prejudice**. (Doc. #217.)

DONE AND ORDERED at Fort Myers, Florida, this 24th day of April, 2023.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Counsel of record